

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

COLUMBIA GAS TRANSMISSION	:	
CORPORATION,	:	
	:	
Plaintiff	:	
v.	:	
AN EASEMENT TO CONSTRUCT,	:	C.A. NO. 02-CV-3733
OPERATE AND MAINTAIN A 24-INCH	:	
GAS TRANSMISSION PIPELINE ACROSS	:	
PROPERTIES IN CHESTER COUNTY,	:	
PENNSYLVANIA, OWNED BY PAR AND	:	
PARTHASARATHY ANBIL, et al. and	:	
UNKNOWN PERSONS AND INTERESTED	:	
PARTIES,	:	
	:	
Defendants	:	

**RESPONSE OF DEFENDANTS, SCOTT R. AND KERSTIN R. MARCUM, TO  
PLAINTIFF'S MOTION FOR IMMEDIATE ACCESS AND POSSESSION OF  
EASEMENTS CONDEMNED FOR PIPELINE REPLACEMENT**

Defendants Scott R. and Kerstin R. Marcum ("Marcums"), by their undersigned counsel, hereby file this Response to Plaintiff's Motion for Immediate Access and Possession of Easements Condemned for Pipeline Replacement and state as follows:

1. Admitted.
2. Admitted. Answering further, the order of the Federal Energy Regulatory Commission ("FERC"), dated May 17, 2002 ("May 17<sup>th</sup> Order"), states, among other things, that Columbia has reduced its permanent right-of-way width from 50 feet to 40 feet near the home of the Marcums.
3. Whether Columbia had to obtain new easements on certain properties is a conclusion of law to which no further response is required.
4. The Marcums are without knowledge or information sufficient to form a belief as to whether Columbia attempted to negotiate new easement agreements with all of the property owners.

It is admitted Columbia did attempt to negotiate a new easement agreement with the Marcums; to date, the Marcums and Columbia have not reached an agreement with respect to the new easement.

5. Denied. The allegations of this paragraph are conclusions of law to which no further response is required.

6. Denied. As detailed in the Answer with Affirmative Defenses and Counterclaim filed by the Marcums on July 8, 2002, as to the property of the Marcums (at 5014 Deer Drive, Downingtown, Pennsylvania), Columbia is requesting the granting of an easement across the Marcums' property that is not consistent with, and is beyond the scope of, the easement across the Marcums' property described in the May 17<sup>th</sup> Order issued by FERC. It is admitted the issue of just compensation, as to the Marcums, is also outstanding and as yet unresolved.

7. The Marcums are without knowledge or information sufficient to form a belief as to whether Columbia requires immediate access and possession to meet its construction schedule and implement the Project. Further, at least in the Marcums' case, Columbia requests the granting of an easement across the Marcums' property which is different from the permanent right-of-way across the Marcums' property approved by FERC, as set forth in the May 17<sup>th</sup> Order.

8. The Marcums are without knowledge or information sufficient to form a belief as to whether Columbia requires immediate access and possession to meet its construction schedule and implement the Project. Further, at least in the Marcums' case, Columbia requests the granting of an easement across the Marcums' property which is different from the permanent right-of-way across the Marcums' property approved by FERC, as set forth in the May 17<sup>th</sup> Order.

9. The Marcums are without knowledge or information sufficient to form a belief as to whether Columbia requires immediate access and possession to meet its construction schedule and

implement the Project. Further, at least in the Marcums' case, Columbia requests the granting of an easement across the Marcums' property which is different from the permanent right-of-way across the Marcums' property approved by FERC, as set forth in the May 17<sup>th</sup> Order. Further, whether Columbia or anyone will suffer substantial harm is a conclusion of law to which no further response is required.

10. The Marcums are without knowledge or information sufficient to form a belief as to whether Columbia requires immediate access and possession to meet its construction schedule and implement the Project. Further, at least in the Marcums' case, Columbia requests the granting of an easement across the Marcums' property which is different from the permanent right-of-way across the Marcums' property approved by FERC, as set forth in the May 17<sup>th</sup> Order. Further, whether Columbia or anyone will suffer substantial harm is a conclusion of law to which no further response is required.

11. Denied. It is denied the Marcums will not suffer any harm by the grant of immediate access to and possession of the easement being sought by Columbia with respect to the Marcums' property. As set forth above and in the Answer, Affirmative Defenses and Counterclaim of the Marcums, Columbia apparently is seeking an easement that is not consistent with, and is beyond the scope of, the easement approved by FERC, in its May 17<sup>th</sup> Order, with respect to the Marcums' property. The Marcums are without knowledge or information sufficient to form a belief as to whether any other landowner will suffer any harm by the grant of immediate access to and possession of the requested easements on the properties of others. It is admitted the 10-inch pipeline runs across the Marcums' property. It is denied that the taking will not affect the resale value of the Marcums' property. To the contrary, if Columbia clears all of the trees on the eastern border of the

Marcums' property, as is has represented it intends to do, among other things, the resale value of the Marcums' property will be impacted. Finally, the Marcums are without knowledge or information sufficient to form a belief as to whether Columbia plans to add additional pipelines.

12. Denied. Columbia should be required to post a bond in excess of its estimate of just compensation due to all of the landowners. With respect to the Marcums, it is believed that the estimated just compensation is far below the true measure of just compensation due to the Marcums as a result of the taking of the new easement (and the associated work to be performed in connection therewith).

WHEREFORE, Defendants Scott and Kerstin Marcum respectfully request that this Honorable Court enter an order denying the Plaintiff's Motion for Immediate Access and Possession of the Easements Condemned for Pipeline Replacement filed by Plaintiff or, alternatively, if this Honorable Court grants immediate access, then restrict Columbia's access rights to the temporary construction easements and permanent construction easements approved by FERC in FERC's order of May 17, 2002.

Respectfully submitted,

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Date: July 12, 2002

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing has been served by first class mail, postage prepaid, upon the following:

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